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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

14 FACEBOOK, INC.

15 Plaintiff,

16 v.

17 CONNECTU LLC, (now known as CONNECTU
18 INC.) PACIFIC NORTHWEST SOFTWARE,
19 INC., WINSTON WILLIAMS, AND DOES 1-25,

20 Defendants.

CASE NO. C 07-01389 RS

**DEFENDANT CONNECTU'S
OPPOSITION TO FACEBOOK'S
MOTION TO ADVANCE THE CASE
MANAGEMENT CONFERENCE**

1 Plaintiff's request to advance the CMC from June 20, 2007 to April 27, 2007 is both
2 unreasonable and unnecessary. The Northern District generally sets the initial CMC approximately
3 100 days after the action is initiated. In this case the CMC was set 103 days after Defendant
4 ConnectU LLC removed it from state court. By that time, the parties should have had the chance to
5 challenge the viability of the pleadings through motions to dismiss, the results of which many times
6 limit or change the scope of the case. As the Court's calendar will reflect, ConnectU has noticed
7 such a motion for hearing on May 2, 2007. These 100 days also provide defendants with the
8 opportunity to investigate the charging allegations, and marshal whatever evidence they believe is
9 necessary to defend the case during the Rule 26 stay of discovery. These 100 days between the
10 initiation of the federal action and the CMC represent a reasonable time for such investigation and
11 should not be disturbed without good cause. Plaintiff does not establish good cause in this request.

12 Plaintiff tells this Court none of this ramp up investigation is necessary because this case was
13 removed from the state court. The Northern District does not provide for a different schedule in the
14 case of removal. Plaintiff further and inaccurately tells this Court that before this case was removed,
15 the state court was on the verge of setting trial¹. This case was removed because Plaintiff filed an
16 amended complaint that substantially changed the issues and added two new parties. Plaintiff's state
17 court complaint is comprised of two counts. The First Amended Complaint is comprised of seven
18 counts, including two causes of action arising under federal law and new causes of action arising
19 under the general laws of Massachusetts. Plaintiff has had a substantial time to investigate these
20 new claims. ConnectU just learned about them. The 100 days between the initiation of the federal
21 action and the CMC is a reasonable time that will allow for the development of a thoughtful and
22 comprehensive approach. It should not be shortened.

23 While shortening the time to the CMC would be a strain on the originally named defendant,
24 ConnectU LLC, it would be even more burdensome on the two new parties recently added to this
25 case. Plaintiff effectively tells this Court these new parties should be prepared to go to trial now

26
27 ¹ Plaintiff interestingly tells this Court that the state court would have set a trial date at its
28 next CMC. In light of the condition of the amended complaint, Defendant strongly disagrees.

1 because they retained the same counsel as the earlier-named defendant, ConnectU LLC. Plaintiff
 2 fails to explain whether or why it believes these new parties should be treated as if they were the
 3 alter ego of ConnectU. Certainly no such allegation exists in the First Amended Complaint.

4 These new parties are separate from ConnectU. They have different issues than those facing
 5 ConnectU. For example, these new parties do not believe this Court has jurisdiction over them.
 6 And, as this Court knows, these new parties have filed motions challenging the assertion of
 7 jurisdiction over them. Even if such motions had not been filed, certainly these parties are entitled to
 8 the same due process, which includes the time to investigate and analyze this case as other entities
 9 recently named in an action. Plaintiff chose to name these new parties--they did not voluntarily
 10 enter this litigation on their own. The logical steps and approaches provided by this Court's
 11 schedule should not be interrupted, particularly where a Plaintiff has decided to bring in new parties.

12 Plaintiff's request inaccurately and unfairly characterizes many of the activities in both the
 13 state court case and a District of Massachusetts case involving some of the same parties. Because
 14 none of these inaccuracies--such as the reference to individuals "recanting" testimony, the
 15 characterization of defendants acts, or some of the so-called "pending" activity in state court--has
 16 any bearing on this motion, ConnectU will not waste time correcting the record. Suffice it to say
 17 they are inaccurate.

18 This is a new case which was removed from state court as a result of a recently-filed
 19 amended complaint. Plaintiff provides no justification for altering the schedule established by the
 20 Northern District of California. The current June 20, 2007 CMC should remain on calendar.

21
 22 Respectfully submitted,

23 Dated: April 12, 2007

FINNEGAN, HENDERSON, FARABOW,
 GARRETT & DUNNER, L.L.P.

24
 25 /s/ Scott R. Mosko

26 Scott R. Mosko, Attorneys for Defendant
 27 ConnectU LLC
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